**REGIONAL NOTICE TO THE PROFESSION**

**PROTOCOL FOR CRIMINAL MATTERS IN THE SUPERIOR COURT OF JUSTICE,**

**CENTRAL EAST REGION**

**(Effective January 4, 2021)**

**Introduction**

This Protocol applies to criminal matters in the Superior Court of Justice in the Central East Region effective January 4, 2021, and until further notice.

The Protocol is subject to change from time to time as may be necessary.

The timelines and other requirements set out in the Superior Court’s Criminal Proceedings Rules (“the Rules”) apply, unless specified otherwise in this Protocol.

**Counsel and self-represented defendants are advised that failure to comply with the requirements of the Rules and this Protocol may result in the matter not being heard.**

**Gowning**

Until further notice, counsel need not gown for a Superior Court proceeding. Counsel should wear business attire, including for remote appearances via videoconference.

**Judicial Pre-Trials**

Until further notice, all judicial pre-trials (“JPTs”) will be held by remote means. ZOOM videoconference and/or teleconference will be the preferred medium. Other conference call telephone lines will be available, including for self-represented defendants, if it is not possible to use ZOOM.

It is expected that counsel will book a JPT in the Superior Court at the same time as the defendant is ordered by an Ontario Court judge to stand trial in the Superior Court.

JPTs can be booked by contacting the trial coordinators at the telephone numbers listed at the end of this Regional Notice:

* Where the charges are outstanding in Barrie, by contacting Ms. Tina Tse, Trial Coordinator;
* Where the charges are outstanding in Bracebridge, by contacting Ms. Tina Tse, Trial Coordinator;
* Where the charges are outstanding in Newmarket, by contacting Ms. Llyshelle Barrett, Assistant Trial Coordinator;
* Where the charges are outstanding in Oshawa, by contacting Ms. Jackie Traviss, Trial Coordinator;
* Where the charges are outstanding in a Tri-County site (Cobourg. Lindsay and Peterborough), by contacting Ms. Maureen O’Brien, Trial Coordinator.

Crown and defence counsel or any self-represented defendant must *jointly* complete a Form 17 Pre-Trial Conference Report and file it along with a synopsis of the offence(s) and a copy of the Indictment, by email to the generic email address for the trial coordinator at the applicable Court location, listed at the end of this Regional Notice, **no later than 5 days before the date scheduled for the JPT.**

Counsel and any self-represented defendant must be available at the time set for the JPT and must be in a stationary location with good video or cell phone/land line reception. JPTs should not be conducted from automobiles, or from locations that do not permit privacy.

No-one other than counsel may be present on the JPT videoconference/teleconference line, without the express permission of the presiding judge. The defendant will not be present for the JPT, except where they are self-represented or have counsel retained only to assist at the JPT.

No recording may be made of the JPT, except by order of the presiding judge.

**Obtaining the Attendance of A Defendant Who Is In Custody**

Where the attendance of a defendant who is in custody is required for a Superior Court proceeding (other than scheduled pre-trial motions or a trial), whether in person or by virtual means, counsel who seeks the defendant’s attendance must prepare an application for a Judge’s Order including a draft Order, and submit it to the trial coordinator through the applicable generic email address, **at least three days before the date of the proceeding**. The trial coordinator will obtain a judge’s signature and forward the signed Judge’s Order to the jail.

**90 Day and Other Bail Reviews and Superior Court Bail Applications**

These matters will continue to be heard by remote means.

Counsel who wish to schedule a 90 day or other bail review or a Superior Court bail application should contact the trial coordinator at the applicable court location to obtain a hearing date.

If counsel anticipates that an interpreter will be needed for the hearing for the defendant, a surety, or a witness, counsel must advise the trial coordinator at the time the hearing is requested. The trial coordinator will request that Court Services Division obtain any interpreter required for the hearing.

Once a hearing date is obtained, counsel for the applicant should serve counsel for the opposite party with the application materials by email; and file the application materials electronically by email to the Court Services Division generic email address for the applicable court location, listed at the end of this Regional Notice. Any responding materials should be served and filed electronically in the same way.

If counsel or a self-represented party is unable to file materials electronically, they may be filed in person at the applicable court location.

**Materials for bail matters may *not* be filed by sending them to the trial coordinator.**

Where defence counsel requests the hearing, defence counsel should include in the materials either an affidavit of any proposed surety or a surety declaration form, and confirmation that defence counsel witnessed the signature of the surety, either in person or by some other means such as Zoom, Facetime, or Skype, and confirmed identity by viewing photo identification. If counsel seeks relief from compliance with this requirement or any other aspect of the Rules, counsel should include that request in the materials filed.

*Counsel are reminded that there are significant limitations on the number of defendants who can be given access to videoconference and teleconference lines from the jails, and it may not be possible for institutions to facilitate every request. Counsel should seek a Judge’s Order for the defendant’s virtual attendance only if it is truly necessary.*

**If there is consent:**

1. No hearing need be held.
2. Counsel will jointly complete all necessary paperwork, including terms of release and surety declaration, to enable a registrar to prepare the release document.
3. Counsel will forward the completed paperwork to the generic email address for the trial coordinator in the location where the defendant is charged. The trial coordinator will forward it to a registrar.
4. The registrar will prepare the release document (for example, recognizance).
5. The registrar will contact the trial coordinator and arrange to have the release document emailed to a judge of the Court for review and approval.
6. The judge will confirm their approval by return email message to the trial coordinator, who will forward the email to the registrar. This email should be retained by the registrar for the court file.
7. The registrar will contact defence counsel for assistance in obtaining such binding acknowledgement as is required from the surety/sureties.
8. The registrar, pursuant to s. 3(2) of the *Criminal Code*, will sign the release document. It is not necessary for the judge to sign it.
9. The registrar will forward the release document and any other documents required to effect the defendant’s release, to the institution.

**If there is no consent:**

1. The trial coordinator will advise counsel, the jail if a Judge’s Order was obtained, and court staff of the videoconference or teleconference information.
2. The trial coordinator will forward the materials filed with Court Services Division to the assigned judge and advise them of the date and time of the hearing.
3. In the event the assigned judge wishes counsel to provide additional materials, the judge will attempt to notify counsel through the trial coordinator, in advance of the hearing.
4. The trial coordinator will request that Court Services Division assign a registrar and a reporter to the hearing.
5. In advance of the hearing, counsel who seeks the hearing should complete a terms of release form and circulate it to opposite counsel.
6. If it is not possible for the surety/sureties to be in the presence of defence counsel during the videoconference or teleconference, defence counsel must provide the surety/sureties with the connection information and have the surety/sureties connect at the appointed time.
7. At the conclusion of the hearing, the presiding judge may give their decision orally or may reserve their decision and release it to the parties in writing at a later time. In either case, the presiding judge should handwrite a brief written endorsement and if possible, scan or dictate it to the registrar to be attached to the court file.
8. If the defendant’s release is ordered, the registrar will complete the release document (for example, recognizance), then send it to the judge by email for review. The judge will confirm their approval by return email message. This email should be retained by the registrar for the court file.
9. The registrar will contact defence counsel for assistance in obtaining such binding acknowledgement as is required from the surety/sureties.
10. The registrar, pursuant to s. 3(2) of the *Criminal Code*, will sign the release document. It is not necessary for the presiding judge to sign it.
11. The registrar will forward the release document and any other documents required to effect the defendant’s release, to the institution.

**Stand-Alone Motions and Applications**

Hearing dates for stand-alone motions and applications such as *Rowbotham* applications, *certiorari* applications, and motions to stay driving prohibition Orders pending appeal can be obtained by contacting the trial coordinator at the applicable Court location.

Crown and defence counsel are asked to consider whether the matter can be heard in writing, and to advise the trial coordinator of this.

If the matter cannot be heard in writing, it will be heard by ZOOM videoconference or teleconference unless a judge of the court orders otherwise.

All materials are to be filed according to the timeline set out in the Rules. Filing is to be made electronically by email to the Court Services Division generic email address for the applicable court location. If counsel or a self-represented party is unable to file materials electronically, they may be filed in person at the applicable court location.

**Pre-Trial Motions**

All materials for pre-trial motions are to be filed according to the timeline set by the Judicial Pre-Trial Judge.

Filing is to be made electronically by email to the Court Services Division generic email address for the applicable court location. If counsel or a self-represented party is unable to file materials electronically, they may be filed in person at the applicable court location.

**Guilty Pleas**

Hearing dates for guilty pleas may be obtained from a Judicial Pre-Trial Judge, or from the trial coordinator at the applicable court location.

Guilty pleas will be heard by ZOOM videoconference or teleconference unless a judge of the court orders otherwise.

All materials are to be filed **3 days in advance** of the date set for the guilty plea. Filing is to be made electronically by email to the Court Services Division generic email address for the applicable court location. If counsel or a self-represented party is unable to file materials electronically, they may be filed in person at the applicable court location.

**Sentencing Proceedings**

Sentencing hearings will be conducted by ZOOM videoconference or teleconference unless the judge who is seized orders otherwise

All materials are to be filed **3 days in advance** of the hearing date. Filing is to be made electronically by email to the Court Services Division generic email address for the applicable court location. If counsel or a self-represented party is unable to file materials electronically, they may be filed in person at the applicable court location.

The imposition of sentence will occur by ZOOM videoconference or teleconference, or in person, as the judge who is seized directs.

**Summary Conviction Appeals**

All materials for a summary conviction appeal are to be filed in accordance with the timeline set out in the Rules.

Filing is to be made electronically by email to the Court Services Division generic email address for the applicable court location. If counsel or a self-represented party is unable to file materials electronically, they may be filed in person at the applicable court location.

Hearing dates for summary conviction appeals can be obtained by contacting the trial coordinator at the applicable Court location. The appeal must be perfected in order for a hearing date to be fixed.

Crown and defence counsel are asked to consider whether the summary conviction appeal can be heard in writing, and to advise the trial coordinator of this.

Until further notice, if the matter cannot be heard in writing, it will be heard by ZOOM videoconference or teleconference unless a judge of the court orders otherwise.

**Virtual Hearings**

Counsel seeking a date for a pre-trial motion or judge alone trial to be conducted virtually by ZOOM videoconference should contact the trial coordinator at the applicable Court location, on notice to all other counsel. The trial coordinator will seek the direction of the Regional Senior Judge.

**Inquiries About Other Matters**

Inquiries about any matters not otherwise addressed in this Regional Notice, or where judicial direction is sought should be made to the trial coordinator at the applicable Court location.

**Contact Information for Trial Coordinators**

The list of generic email addresses and the telephone numbers for the trial coordinators in the Central East Region is as follows:

Barrie.SCJ.TC@ontario.ca

705-739-6121

Ms. Tina Tse (for Barrie and Bracebridge)

Newmarket.SCJ.TC@ontario.ca

905-853-4827 ext 6328

Ms. Llyshelle Barrett (for Newmarket)

Oshawa.SCJ.TC@ontario.ca

905-743-2638

Ms. Jackie Traviss (for Oshawa)

Peterborough.SCJ.TC@ontario.ca

705-876-3823

1-800-788-0977

Ms. Maureen O’Brien (for Peterborough, Lindsay and Cobourg)

**Court Services Division Generic Email Addresses**

The list of generic Court Services Division email addresses for the Central East Region is as follows:

Barrie Barrie.SCJ.courts@ontario.ca

Bracebridge Bracebridge.courts@ontario.ca

Cobourg Cobourg.courts@ontario.ca

Durham (Oshawa) Durham.SCJ.courts@ontario.ca

Lindsay Lindsay.courts@ontario.ca

Newmarket Newmarket.SCJ.courts@ontario.ca

Peterborough Peterborough.SCJ.courts@ontario.ca

Dated December 18, 2020



Justice Michelle Fuerst

Regional Senior Judge,

Superior Court of Justice,

Central East Region